

ILLINOIS COMMERCE COMMISSION

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CHIEF CLERK'S OFFICE

ONEIDA NETWORK SERVICES, INC. }

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Petition for Suspension or Modification of
Section 251(b)(2) requirements of the
Federal Telecommunications Act pursuant
to Section 251(f)(2) of said Act, for entry of
Interim Order; and for other necessary relief. }

Docket No.

04-0199

PETITION

NOW COMES, Oneida Network Services, Inc. ("ONSI" or "Petitioner"), by its attorneys, and petitions the Illinois Commerce Commission ("Commission") pursuant to Section 251(f)(2)¹ of the Federal Telecommunications Act ("Federal Act") to enter an Order suspending or modifying the number portability requirements, imposed by Section 251(b)(2) of the Federal Act² until November 24, 2004 and for all other necessary relief and in support of its Petition states as follows:

1. ONSI is a facilities-based local exchange carrier providing local exchange telecommunications services as defined in Section 13-204 of the Illinois Public Utilities Act ("Act") subject to the jurisdiction of this Commission. ONSI provides competitive local exchange service in its Rio exchange. ONSI's service territory is sparsely populated. ONSI's service area consists of approximately 80 square miles in which ONSI provides service to approximately 220 access lines. The largest town in ONSI's service territory is Rio, which has a population of approximately 240.

¹ 47 U.S.C. § 251(f)(2).

² 47 U.S.C. § 251(b)(2).

2. ONSI is a “rural telephone company” within the meaning of Section 153(47) of the Federal Act and Section 51.5 of the Rules of the Federal Communications Commission (“FCC”).

3. ONSI, as a rural telephone company, possesses a rural exemption of the Section 251(c) obligation pursuant to Section 251(f)(1)(A) of the Federal Act. ONSI has not received a bona fide request for interconnection, services or network elements from any telecommunications carrier; and no telecommunications carrier has asked the Commission to terminate ONSI’s rural exemption pursuant to the provisions of Section 251(f)(1)(B) of the Federal Act.

4. Section 251(b)(2) of the Federal Act provides as follows:

(b) Obligations of All Local Exchange Carriers.—Each local exchange carrier has the following duties:

(2) Number Portability.—The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

5. No wireless carrier has a point of interconnection or numbering resources in any exchange or rate center within ONSI’s service area.

6. On November 10, 2003 The FCC released a *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking* in CC Docket No. 95-116 (Intermodal Order). The order directed that all wireline carriers that are not within the top 100 MSA markets must implement local number portability to wireless carriers by May 24, 2004. Intermodal Order @ par. 29.

7. By this Petition, ONSI seeks a suspension after May 24, 2004 of the duty to provide number portability in accordance with the requirements prescribed by the FCC

in accordance with ONSI's rights to seek such a suspension pursuant to the terms of Section 251(f)(2) of the Federal Act. That Section provides as follows:

Section 251(f)(2) Suspensions and Modifications For Rural Carriers.—A local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) to telephone exchange service facilities specified in such petition. The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification—

(A) is necessary—

(i) to avoid a significant adverse economic impact on users of telecommunications services generally;

(ii) to avoid imposing a requirement that is unduly economically burdensome; or

(iii) to avoid imposing a requirement that is technically infeasible; and

(B) is consistent with the public interest, convenience, and necessity. The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. **Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.** (Emphasis added.)

8. ONSI has a Nortel DMS-10 remote switch, which is located in the Rio exchange. While the current generic software contained in the host switch will accommodate number portability, said capacity has not been activated. At a minimum, the following additional actions would need to be completed to implement the provision of local number portability by ONSI with wireless carriers. Translations would have to be made and implemented on the host switch. ONSI would need to select and enter into an agreement with a vendor to provide Local Number Portability Service Order Administration Services. Since all local calls within ONSI's entire service territory may

and all extended area service and long distance calls will need to have a data base dip in connection with the provision of number portability, an application would have to be filed with NPAC, the national provider of that service, to obtain NPAC Service Management Systems Services. Information concerning all ONSI's NXX codes and customer numbers would have to be provided to NPAC and loaded into NPAC's database. Appropriate testing would have to be completed. ONSI's operational support systems would need to be reviewed and modified by ONSI's vendors to accommodate number portability. Appropriate training for ONSI's personnel would have to be completed. In addition to the above, appropriate information and procedures would have to be exchanged and established with any wireless carrier seeking number portability and agreements negotiated and entered into with wireless carriers seeking number portability. Many of these actions must occur sequentially and some are dependent upon the availability and time schedule of vendors and others.

9. After a complete record is compiled in this docket, ONSI seeks an Order herein further suspending or modifying's obligation to provide local number portability to November 24, 2006, because such a suspension is necessary to avoid significant adverse economic impact on all customers of ONSI due to the level of increased rates or surcharges necessary to recover both the non-recurring and recurring costs associated with the provision of local number portability. It is not technically feasible, or as a practical matter possible, for ONSI to transport wireless ported calls beyond the boundary of its service area because Petitioner is not licensed as an interexchange carrier. The granting of a further suspension or modification of the local number portability requirements will be shown to be consistent with the public interest, convenience and necessity.

10. Due to the short time between now and May 24, 2004, ONSI has not, as yet, been able to completely quantify or estimate all of the costs to ONSI (or the potential rate impact on ONSI customers) of providing wireline-to-wireless local number portability; however, ONSI will present evidence that will include, but may not be limited to, the following types, or categories, of non-recurring and recurring costs associated with the provision of wireline-to-wireless local number portability by ONSI: generic upgrade of Nortel's switch; Nortel DMS-10 translations; setup of local routing number/global title translation database for access and transport; local number portability service order administration service setup (IMPAC); operator support system modifications; employee training; customer education; local routing numbers/global title translation database access and transport (costs of dips); local number portability service order administration service; potential local transport, tandem switching and intercarrier compensation; and recurring customer service and administrative costs.

11. If ONSI were to be required at some point in time to implement wireline-to-wireless local number portability, among the costs that would be incurred requiring recovery in rates are costs associated with transport and intercarrier compensation. Since no wireless carrier has a point of interconnection or numbering resources in any exchange or rate center within ONSI's serving area, ONSI believes, based upon the requirements of the November 10, 2003 FCC Order³, that all calls from ONSI wireline customers in its Rio exchange to an ONSI customer, who had ported his/her number to a wireless carrier, would have to be transported to SBC's tandem in Rock Island, Illinois

³ ONSI believes that the FCC Order is unlawful and will be overturned. In addition, ONSI questions the FCC's jurisdiction or the right to prescribe the routing and rating of Illinois intrastate calls. However, the legality of the FCC Order is not the subject matter of this Petition seeking a suspension or modification pursuant to Section 251(f)(2) of the Federal Act.

for delivery to the wireless carrier.⁴ This, at a minimum, would involve the use of transport facilities provided by ONSI and transport facilities provided by SBC as well as tandem switching functions performed by SBC in Rock Island. The FCC Order fails to determine responsibility for the payment of those costs and associated intercarrier compensation for the transport of calls and fails to determine how those costs should be recovered. In determining the issues raised by this Petition under the statutory criteria of Section 251(f)(2), this Commission will either have to resolve those issues or extend the requested suspension or modification until a final determination of those issues is made by the FCC or a court having jurisdiction.

WHEREFORE, ONSI respectfully requests that the Commission do each of the following:

A. Enter a Temporary Order, without hearing, suspending any requirement that ONSI may have under Section 251(b)(2) of the Federal Telecommunications Act of 1996 to provide wireline-to-wireless local number portability after May 24, 2004, or until an order is entered in this proceeding; and

B. Enter an order at the conclusion of this proceeding suspending or modifying ONSI's obligation under Section 251(b)(2) of the Federal Telecommunications Act of 1996 to provide wireline-to-wireless local number portability until November 24, 2006, consistent with the record of this proceeding and the statutory criteria contained in Section 251(f)(2) of the Federal Act and make such

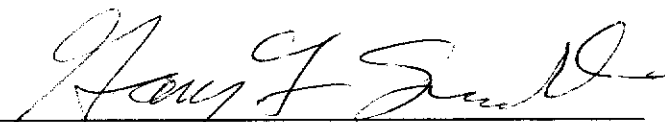
⁴ ONSI is not an interexchange carrier; and other calls from ONSI landline customers, which exit ONSI's service territory, are handed over by ONSI to the customer's PICed interexchange carrier for transport and delivery. The interexchange carrier pays, via carrier access charges, all LEC charges associated with the call, including transport, tandem switching and termination and recovers those costs via its toll charges to the customer.

further determinations and grant any other necessary relief, as appropriate, based upon the record of this proceeding.

DATED this 4 day of Feb March, 2004.

Respectfully submitted,

ONEIDA NETWORK SERVICES, INC.



Gary L. Smith

Gary L. Smith
Loewenstein, Hagen & Smith, P.C.
Attorneys for Oneida Network Services, Inc.
1204 South Fourth Street
Springfield, IL 62703
Phone: 217/789-0500
Fax: 217/522-6047
E-mail: lexsmith@lhoslaw.com

STATE OF ILLINOIS)
)
COUNTY OF KNOX) SS

The undersigned, Gary Peterson, being first duly sworn on oath, deposes and states that he is the President of Oneida Network Services, Inc. that he has read the Petition of Oneida Network Services, Inc. filed in this docket, and that the contents thereof are true and correct to the best of his information and belief.

Gary Peterson President
Gary Peterson, President

Subscribed and sworn to before me, a notary public, this 2nd day of March, 2004.

Lori McCarthy
Notary Public

